1945

File No. Land Improvement II/45.

Legal Department.

R. BRANCH

Subject:— Rules and Notifications under the Bombay Land Improvement Schemes Act, 1942

11/1945

File No. Land Improvement II/45

Gen. 194 e.

415-B

Office of the R.L.A.

1. From L.S. RC.L's note at p. 115 it is not clear whether the new rules are to depart from the lines on which the old rules were framed, except where specifically so stated in para 6 of his note.

2. The requisite preamble has been prefixed to the draft rules. Rule 2 of the R.C.D. draft has been embodied in the preamble.

3. R.C.D. Rule 4 corresponds to rule 3 in the revised draft. Although section 5(2) of the Act as amended by Bom. VII of 1945 prescribes publication of the scheme in the official Gazette, and at the village, as well as the taluka and district headquarters, the rules may provide that notice of publication shall be in Form I. Under the new section 5 (3) appearance by agent for lodging objections - which had been provided for in the original section 5(2) - appears to have been specifically omitted. Form I is therefore suitably revised.

4. R.C.D. draft rule 5: The same considerations arise as in the case of section 5(2), the provisions of section 9(2) being in the same terms. The present rules provide for publication in newspapers. This provision has been retained. Form II will have to reproduce the scheme "as sanctioned" and as published in the Gazette. The form is slightly amended.

5. R.C.D. draft rule 6: Sub-rule (1) of this rule prescribes the form of the statement and provides for its despatch to the Mamlatdar or Mahalkari by the Land Improvement Officer. Sub-rule (2) provides that the Collector shall direct the village accountant to make changes in the particulars entered in the statement corresponding to such changes as may be made in the register of mutations maintained under Chapter X-A of the Bombay Land Revenue Code, 1879, and certified by a revenue officer not lower in rank than an Aval

Karkun. Sub-section (2) of section 13 however provides that when the statement is prepared under that section, any rights and liabilities shown therein i.e. in the statement, shall be entered in the record of rights maintained under Chapter X-A of the Bombay Land Revenue Code, 1879 and in the village accounts in such manner as the Provincial Government may prescribe and shall thereupon ~~xx~~ form part of such record of rights and of the village accounts. Mutations in the record of rights will take place in accordance with the provisions of the Code. A rule prescribing the manner in which such rights and liabilities should be entered in the record of rights may be made. If the necessary provisions in the rules is to be made, it will go in as draft rule 6, under the heading :

"6. Manner of entry of rights and liabilities in the record of rights and village accounts under section 13(2)."

6. Forms I to IV (pages 123-127) as amended are in order.

7. The forms at pp. 129-141 ante of the P.C.D. draft are presumably prepared for maintaining the record of rights and liabilities under the Code in the village accounts; but there is no provision in the P.C.D. draft which bears reference to these forms. These forms have therefore been omitted from the revised draft.

Sd/-

Remembrancer of Legal Affairs.

U.F. to P.C.D. No. 6381 , dated the 28th August 1945.

N.V.D.
17/7
4c.

Reconstruction Department,
Bombay Castle, 19 45.

Bombay Land Improvement Schemes Act, 1942.

No.- The following draft rules which the Government of Bombay proposes to make in exercise of the powers conferred by section 24 of the Bombay Land Improvement Schemes Act, 1942 (Bom. XXVIII of 1942), are published as required by sub-section (3) of the said section 24 and notice is hereby given that the said draft rules will be taken into consideration by the Government of Bombay on or after the -..... 1945.

2. Any objection or suggestion which may be received by the Secretary to Government, Reconstruction Department, from any person with respect to the said draft rules on or before the date aforesaid will be considered by Government.

Draft notification.

No. In exercise of the powers conferred by section 24 of the Bombay Land Improvement Schemes Act, 1942 (Bom. XXVIII of 1942) and in supersession of the Bombay Land Improvement Schemes Rules, 1942, the Government of Bombay is pleased to make the following rules, namely:-

1. Short title.- These rules may be called the Bombay Land Improvement Schemes Rules, 1945.

2 2. Definitions.- In these rules, unless there is anything repugnant in the subject or context-

(a) "Act" means the Bombay Land Improvement Schemes Act, 1942.

(b) "Form" means a form appended to these rules.

(c) Words and expressions used in the Act and not defined in these rules shall have the meaning assigned to them in the Act.

3. Notice of publication of scheme published under section 5(2).- On publication of a scheme under sub-section (2) of section 5 of the Act the Board shall give a notice in Form I of the publication of the scheme to all persons affected thereby. The notice shall be

be given by affixing a copy thereof on the notice board in the office of the Collector and of the Mamlatdar or Mahalkari concerned and at conspicuous places in the village or villates affected by the scheme.

4. Manner of publication of scheme under section 9(2).- On a scheme being sanctioned under sub-section (1) of section 9 of the Act the Board shall publish it in the ~~[illegible]~~ official Gazette and in such local newspapers, if any, as it may decide, and by affixing notices in Form II on the notice board in the offices of the Collector and of the Mamlatdar or Mahlkari concerned and at conspicuous places in the village or villages affected by the scheme.

5. Preparation of statement under section 13(1).- The statement to be prepared under sun-section (1) of section 13 shall be in Form III and shall be sent by the Land Improvement Officer to the Mamlatdar or Mahalkari concerned as soon as possible after the 1st day of April in each year.

6. (1) Notice of entry upon land under section 16.- The notice to be given by a person authorised by the Board, the Collector or the Land Improvement Officer under section 16 of the Act shall be in Form IV and in the regional language of the area to which it relates.

(2) The notice shall be served on the owner, occupier or person interested in the land -

(a) personally by delivering or tendering it to him, or

(b) through his agent, if any, by delivering or tendering it to the agent, or

(c) by affixing a copy thereof to some conspicuous place on the land to which it relates, or

(d) by post.

7. (1) Extent of enhancement of rent and conditions subject to which enhancement may be made under section 18.- The owner of any land included in a scheme in any area in which levy of rent payable by a tenant is regulated

under any law for the time being in force may, after three years from the date on which the scheme comes into force under section 10, enhance the rent payable by a tenant in respect of such land by not more than 10 per cent. of the rent payable on the date on which the scheme comes into force.

(2) If any such owner desires to enhance the rent by more than the said 10 per cent. he shall apply in writing to the Provincial Government for the purpose.

(3) The Provincial Government shall forward any application received under sub-rule (2), through the Collector, to the Mamlatdar of Mahalkari, within whose jurisdiction the land in respect of which the enhancement of rent is to be made is situate, for inquiry and report on the increase in the profits of agriculture consequent on the carrying out of works on the land under the scheme.

(4) On receipt of an application under sub-rule (3), the Mamlatdar or Mahalkari, as the case may be, shall after giving notice to the tenant of the land, hold an inquiry in accordance with the provisions of Chapter XII of the Bombay Land Revenue Code, 1879, and make the required report through the Collector to the Provincial Government.

(5) On receipt of the report under sub-rule (4) the Provincial Government shall determine the extent of enhancement of rent which may be allowed and communicate its decision to the applicant.

8. <u>Manner in which documents, plans and maps relating to a scheme which ~~the~~ has come into force shall be made accessible to the public under section 19.</u> Documents, plans and maps relating to a scheme which has come into force shall be open for public inspection at the office of the Mamlatdar or Mahalkari concerned at any time during office hours. Certified copies thereof shall be supplied on payment

on payment of the fees for certified copies prescribed in Chapter XXII of the Land Revenue Rules (1921).

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17/7
4c.

From No. I.

(See Rule 3)

Notice of publication of draft scheme.

Notice of publication is hereby given of the scheme prepared in accordance with the provisions of section 4 of the Bombay Land Improvement Schemes Act, 1942, providing for .....*..... for the lands described below and situate in the village of ~~[illegible]~~ ....

Taluka / petha District.

Survey Number and other description of lands.	Nature of works to be carried out.

All persons affected by the scheme who wish to make any claims or to submit any objections to the said scheme should do so in writing or by appearing personally before the Inquiry Officer appointed for the scheme on or before .....@ at.....

dated the ..... day of 19

(Signed)

Secretary of the Board.

Form No. II.

(See rule 4)

Notice of publication of scheme.

Notice is hereby given that the scheme providing for..... ..... for the lands described below and situate at the village of ..... of the .... taluka / petha ..... district, has been sanctioned by the Board / Provincial Government under sub-section (1) of section 9 of the Government of Bombay Land Improvement & Schemes Act, 1942.

Description of lands.	works to be carried out

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*Description of Scheme.

@A date not later than 21 days after date of publication of the scheme in the Bombay Government Gazette under section 9.

The works described above will be carried out by Government at the cost ~~xxxxxxxxxx~~ or part cost of the owner. If however the owner of any land included in the scheme desires, to carry out himself the work in his land he shall give notice in writing to that effect to the Executing Officer appointed for the scheme on or before ....@ .....at .....

Dated the.....day of 19

(Signed)

Secretary ~~of~~ the Board.

@ A date later than 21 days after date of publication of the scheme in the Bombay Government Gazette under section 9.

Village--------
Taluka or Petha--------
District----------

FORM III
(See Rule 5)

Total cost recoverable Rs. As. Ps.
Total annual instalment.

S. No. and/or sub-division No.	Area	Assessment.	Nature of work done.	Total cost of work done.	Total amount to be recovered from owner.	Period of recovery.	Year from which recovery should begin.	Annual instalment.	Person or persons liable to maintain and repair work	Remarks.
1	2	3	4	5	6	7	8	9	10	11

FORM No. IV.

(See Rule 6 (1).)

Form of notice of entry upon land to be given to owners/of occupiers of land under section 16.
other persons interested in

To

Mr. A B

owner of
occupier of
mortgagee,
permanent tenant,
or other person interested in

S.No.
Hissa No.
C.T.S.No.
Gaothan plot No.

of village of taluka/peta district.

Notice is hereby given that I, ... being duly authorised under section 16 of the Bombay Land Improvement Schemes Act, 1942, by the Board constituted under section 3 thereof to enter

Collector of
Land Improvement Officer

upon and survey and mark out the land and do all acts necessary for the purpose of preparing, sanctioning and executing a/the scheme, or repairing or maintaining any works under a/the scheme, under the said Act intend to enter upon the land in the abovementioned S. No.
Hissa No.
C.T.S. No.
Gaothan plot No.

for the said purpose at on or after

Dated the day of 194

Person authorised by Board
Collector
Land Improvement office

under section 16 of the said Act.

By order of the Governor of Bombay,

Secretary to Government.

N.V.D.
17/7
4c.

I agree.

The only point on which these papers are referred to the P.L.A. for opinion is whether the owner in the expression "the cost of such work shall be recovered from the owners of the lands included in the scheme" occurring in section 25A of the Bombay Land Improvement Schemes Act, 1942, includes the successors-in-title of the owners. (Vide A-A of the P.C.D. note at page 35 ante).

2. The word "owners" in ~~xxxxx xxxxxx~~ the expression "the cost of such work shall be recovered from the owners of the lands in section 25A of the act will include the successors-in-title of the owners.

A/ The view taken at A-A of the P.C.D. note at page 35 ante is correct.

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Ld/- 25/10

R.L.A

I agree. Reply as at A.

Ld/- P.N.M.
25/10/45.

Office of the R.L.A.

The view taken at A-A of the R.C.D. note at page 35 ante is correct.

Sd/-

Remembrancer of Legal Affairs.

U.P. to R.C.D.No. 8026, dated the 27th October 194

N.V.D.
17/7
4c.